

**REMARKS**

Reconsideration is requested with respect to the rejection of claim 42. That claim was rejected only based on Arai '688, which is actually U.S. Patent No. 6,329,688, the reference being miscited in the statement of prior art.

Claim 39 requires that the second dielectric be over the first dielectric between the floating gates. Thus, the floating gates in Figure 2 are the items 4. The region between the floating gates only includes, at most, a portion of the layer 5b and the layer 5a. Thus, all that can be considered part of the first dielectric is the portion of layer 5a between the floating gates 4 and the small portion of the layer 5b between the floating gates 4. This is because the layer 5c stops exactly at the edge of each floating gate. Thus, it is clear that the first dielectric, as defined in the claim, only includes oxide and nitride and not a second layer of oxide in the claimed position.

Therefore, reconsideration of the rejection of claim 42 is respectfully requested.

Respectfully submitted,



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